

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM C. FLOYD JR.,

Petitioner,

vs.

SCOTT FRAKES, Director of the
Nebraska Department of Correctional
Services; and BRAD HANSEN, Warden
Tecumseh State Correctional Institution;

Respondents.

8:13CV195

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner William C. Floyd Jr.'s ("Petitioner" or "Floyd") motion for a court order ([filing no. 177](#)) and the response ([filing no. 180](#); [filing no. 181](#)) filed by Respondents.

On March 18, 2019, Floyd filed his motion ([filing no. 177](#)) alleging his legal materials related to this pending habeas matter had been confiscated by the Tecumseh State Correctional Institution ("TSCI") and asking the court for a court order directing the return of his legal materials and for an extension of time to submit his brief. On March 20, 2019, the court directed Respondents to submit a brief with supporting evidentiary materials addressing Floyd's motion and expressly deferred consideration of Floyd's request for a continuance of his briefing deadline until further order of the court. ([Filing No. 179](#).) Respondents submitted a brief with an accompanying index on March 21, 2019. ([Filing No. 180](#); [Filing No. 181](#).)

As detailed in their brief in response ([filing no. 180](#)), Respondents investigated this matter and confirmed that on March 13, 2019, Caseworker Thompson searched Floyd's cell and confiscated "a trash bag with papers inside."

([Filing No. 181-1](#).) According to TSCI Unit Manager Matthew Sharp, inmates are not allowed to have trash bags for security reasons. ([Id.](#)) On March 15, 2019, Floyd began the grievance process to obtain the legal material that was taken during the cell search. ([Id.](#)) On March 20, 2019, the Unit Disciplinary Committee went through the trash bag full of papers and determined that about 50% of the paperwork contained legal material. ([Id.](#)) According to Sharp, those legal materials were then given back to Floyd on March 20, 2019, at approximately 1600 hours. ([Id.](#))

Based upon the submissions of Respondents, the court will deny Floyd's motion for a court order as his legal materials have been returned to him. Given that Floyd was without his legal materials for a one-week period, the court will grant Floyd's request for an extension. Floyd shall have until the close of business on **Friday, April 5, 2019**, to submit his brief in response to Respondents' answer and brief. The court has already accounted for the prison mailbox rule in setting this deadline, so Floyd's brief must be **received** by the court no later than April 5, 2019.

IT IS THEREFORE ORDERED that:

1. Floyd's motion for a court order ([filing no. 177](#)) is denied.
2. Taking the prison mailbox rule into account, Floyd shall file his brief in response to Respondents' answer and brief on or before the close of business on **Friday, April 5, 2019**. **Failure to file a brief within the time specified by the court may result in the court dismissing this matter without prejudice and without further notice for lack of prosecution.**
3. The clerk of the court is directed to set a pro se case management deadline using the following text: **April 5, 2019**: check for Petitioner's brief.

Dated this 25th day of March, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge